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CONCORD, N.H.

Mr. Maurice Zing, Secretary  
N. H. Firemen's Retirement Board  
230 Walnut Street  
Manchester, New Hampshire

Dear Mr. Zing:

This will acknowledge your letter of May 15, 1958, with further questions about the interpretation of the Firemen's Retirement System under the amendments passed by the 1957 Session of the Legislature.

You ask whether it is necessary that a permanent fireman have 20 years of service before being eligible to retire at any age between 55 and 65 under the optional retirement provisions of the act. You then cite as an example a person who is employed as a permanent fireman at the age of 47, who, accordingly, would have only 18 years of service upon reaching age 65, which will be the compulsory age on or after January 1, 1959. You then inquire whether such a person may serve 2 more years to make the full 20 years of service and retire at age 67 or whether he must retire at age 65 regardless of length of service.

In order to avoid any misunderstanding of the effect of the 1957 amendments I will first answer your question with regard to the optional retirement age and then take up your question with regard to the compulsory retirement age.

RSA 102:13 (supp) provides in part as

follows:

"Any permanent fireman who accepts the provisions hereof may retire from active service at the age of fifty-five provided he has served as a permanent fireman for a period of twenty years. All permanent firemen who accept the provisions hereof and who have served as permanent firemen for twenty years shall retire from active service at the age of sixty-five. . ."

C O P Y

Mr. Maurice Zing. Secretary

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This section was amended to its present form by Laws 1957, 15:2. Laws 1957, 15:6 provides as follows:

"The provisions of section 2 making it compulsory for certain firemen to retire from active service at the age of sixty-five shall be effective as of January 1, 1959. The remaining provisions of this act shall take effect as of July 1, 1957."

Accordingly, in the case of an optional retirement both conditions must be met, namely, the fireman must have attained the age of 55 and must have had at least 20 years of service as a permanent fireman. Of course, if he has not had 20 years of service upon reaching age 55 he still may retire voluntarily if he attains 20 years of service at any time between ages 55 and 65.

In regard to compulsory retirement again both conditions must be met before a fireman may be compulsorily retired. That is, he must not only attain age 65 but must have had 20 years or more service as a permanent fireman in order that he may be forced to retire at such age. In other words, if he has served as a permanent fireman something less than 20 years at age 65 he may continue in service until he has served for 20 years but must then retire. Therefore, the answer to your example is that the man who is employed at age 47 can serve until age 67 in order to meet the requirement of 20 year's service. You will bear in mind, of course, the provisions of Laws 1957, 15:6 quoted above, which provide that the compulsory retirement age of 65 does not become effective until next January 1st. Accordingly, until that date a permanent fireman may continue to serve and cannot be involuntarily retired even though he is over 65 years of age and has 20 years or more of service unless he has reached age 70. On January 1, 1959, such a person who is 65 or more and has served 20 years or more as a permanent fireman must retire.

I trust that this will answer your questions but if there is anything that is not clear please do not hesitate to call on me again.

Very truly yours,

John J. Zimmerman  
Assistant Attorney General

JJZ/lt